THE HON'BLE SRI JUSTICE J.CHELAMESWAR

AND

THE HON'BLE SRI JUSTICE M.VENKATESWARA REDDY

–

WRIT PETITION Nos.20204, 20212,

20213, 20214 of 2005

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Between:

M/S.Vijay Agro Products Pvt. Ltd.,

….Petitioner.

AND

The Assistant Commissioner (CT) LTU,

No.II Division, Vijayawada and two others.

…Respondents.

Dated: 13.09.2005

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ORDER: (Per JC,J)

The petitioner in all the four writ petitions is the same-a private limited company carrying on the business of manufacture and sale of edible oils and its bye-products. The petitioner is a registered dealer both under the A.P. General Sales Tax Act and Central Sales Tax Act.

It appears that the assessments with reference to the years 2001-2002 and 2002-2003 were already finalized, which are sought to be revised by the first respondent. With reference to the years 2003-2004 and 2004-2005 final assessment order disallowing certain exemptions claimed by the petitioner on consignment sales and with reference to the year 2004-2005 provisional assessment is made once again rejecting the claims of the petitioner for exemption of certain consignment sales. Aggrieved by the same, the petitioner carried the matter in appeal to the Appellate Deputy Commissioner, the 2nd

respondent herein. The appeals were partly allowed remanding the matter to the Assessing Authority. Aggrieved by the said order, the petitioner preferred an appeal to the Sales Tax Appellate Tribunal (for short "Tribunal"). During the pendency of the appeal, the petitioner preferred applications before the Additional Commissioner of Commercial Taxes (Legal), 3rd respondent herein, praying that the collection of the revised tax be stayed in view of the pendency of the appeal before the Tribunal. It appears that all the four applications were heard, but no orders are passed so far.

Complaining that the respondent has been insisting for payment of the tax, the present writ petitions are filed with an identical prayer, one of which is extracted hereunder:

> "… to issue an appropriate writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 1st respondent in insisting the petitioner for payment of disputed tax amount of Rs.83,24,972/- for the assessment year 2003-2004 under the CST Act pending appeal before Hon'ble STAT as arbitrary, unreasonable and unjustified and restrain the 1st respondent from taking any coercive steps for collecting the balance disputed tax of Rs.41,62,486/- for the assessment year 2003-2004 under the Central Sales Tax Act, pending disposal of the appeal filed by the petitioner before the Hon'ble Sales Tax Appellate Tribunal …"

Heard the learned Government Pleader.

Admittedly, the tax in dispute is about Rs.2.28 crores, of which approximately Rs.1.14 crores is already paid by the petitioner. In the circumstances, we deem it appropriate to dispose of these writ petitions directing the respondents not to take any steps to recover the balance of the tax payable by the petitioner pursuant to the revised assessment orders passed with reference to the assessment years mentioned above pending final orders of the appeals preferred by the appellant.

The writ petitions are accordingly disposed of.

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J.CHELAMESWAR, J.

Date: 13.09.2005.

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M.VENKATESWARA REDDY, J.

Note: Furnish copy

of the order by wire

at party's cost.

(B/o)

GS